

## § 5001.7

## 7 CFR Ch. I (1–1–09 Edition)

(1) Financing or constructing projects in phases when it is not practical to finance or construct the entire project at one time, and

(2) Financing or constructing facilities where it is not economically feasible to serve the entire area, provided economic feasibility is determined on the basis of the entire system or facility and not by considering the cost of separate extensions to, or parts thereof. Additionally, the borrower must publicly announce a plan for extending service to areas not initially receiving service. Also, the borrower must provide written notice to potential users located in the areas not to be initially served.

### § 5001.7 Unauthorized projects and purposes.

Loans guaranteed under this part must not be used for any projects other than those authorized in subpart B of this part. In addition, loan funds may not be used to finance:

(a) Investment or arbitrage, or speculative real estate investment.

(b) Golf courses or similar recreational facilities listed in the annual Notice of Funds Availability.

(c) Any business deriving more than 10% of its annual gross revenue from gambling activity, excluding State-authorized lottery proceeds and, for public bodies and for not-for-profit approved projects only, any other funds derived from gambling activity, as approved by the Agency, conducted for the purpose of raising funds for the approved project.

(d) Prostitution or businesses deriving income from activities of a prurient sexual nature.

(e) Any guarantee of a:

(1) Line of credit;

(2) Lease payment; or

(3) Loan made by other Federal agencies.

(f) Any project eligible for Rural Rental Housing and Rural Cooperative Housing loans under sections 515, 521, and 538 of the Housing Act of 1949, as amended.

(g) Finders', packagers', or loan brokers' fees.

(h) Any business deriving income from illegal drugs, drug paraphernalia,

or any other illegal product or activity.

(i) To pay the borrower for the rental of equipment or machinery owned by the borrower.

(j) The payment of either a Federal judgment or a debt owed to the United States, excluding other Federal loans.

(k) Any project that creates, directly or indirectly, a conflict of interest or an appearance of a conflict of interest.

(l) Properties to be used for commercial rental when the borrower has no control over tenants and services offered except for industrial-site infrastructure development and limited sections of essential community facilities when the activity in the leased space is related to and enhances the primary purpose for which the facility is being established by the borrower.

(m) Any project located within the Coastal Barriers Resource System that does not qualify for an exception as defined in section 6 of the Coastal Barriers Resource Act, 16 U.S.C. 3501 *et seq.*

(n) Any project located in a special flood or mudslide hazard area as designated by the Federal Emergency Management Agency in a community that is not participating in the National Flood Insurance Program unless the project is an integral part of a community's flood control plan.

(o) Any other similar project or purpose that the Agency determines is ineligible for funding under this part and publishes in a FEDERAL REGISTER notice.

### § 5001.8 Borrower eligibility.

(a) *Eligible entities.* To be eligible, a borrower must meet the requirements specified in paragraphs (a)(1) and (2) of this section and in subpart B to this part, as applicable.

(1) *Citizenship.* Citizenship requirements are as follows:

(i) Individual borrowers must be citizens of the United States (U.S.), the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, or American Samoa, or reside in the U.S. after legal admittance for permanent residence.

(ii) Entities other than individuals must be at least 51% owned or controlled by persons who are either citizens as identified under paragraph